



COMMONWEALTH OF MASSACHUSETTS  
**Board of Registration  
of  
Hazardous Waste Site Cleanup Professionals**

**MINUTES  
of  
BOARD MEETING**

Held on  
**Sept. 18, 2008**

Meeting Location: Groundwater & Environmental Services, Inc.  
364 Littleton Road  
Littleton, Mass.

Prepared by: A. Fierce

[Approved: Jan. 21, 2009]

1. **Call to Order:** Chairperson Janine Commerford called the meeting to order at 2:10 p.m. The other Board members present were Gail Batchelder, Deborah Farnsworth, Kirk Franklin, Jack Guswa, Christophe Henry, Kelley Race, and Debra Stake. Robert Luhrs, Gretchen Latowsky, and Paul Mullen were absent. The LSP Board staff members present were Allan Fierce, Lynn Read, Brian Quinlan, Ron Viola, Terry Wood, and Al Wyman. Wes Stimpson of the LSP Association was also present.
2. **Announcements:** Mr. Guswa was introduced to Ms. Batchelder, Ms. Farnsworth, and Mr. Henry, who were not present at the previous meeting.
3. **Agenda:** The Board members agreed to follow the draft Agenda.
4. **Minutes:** The Board reviewed and offered minor corrections to the draft minutes of the meeting of the Board held on August 21, 2008. **A motion was made and seconded to approve the minutes as corrected. The motion was approved unanimously.**
5. **Reports from Quasi-Judicial Sessions:** Mr. Fierce requested and received the Board's unanimous consent to publish in the minutes of this meeting the following report from a previous quasi-judicial session of the Board.

***Administrative Consent Order Re: Complaint 06C-03***

At a quasi-judicial session held on August 21, 2008, Mr. Fierce, acting as the Board's attorney on this matter, presented the terms of a proposed agreement for discipline that, if

approved, would resolve Complaint 06C-03 and the pending adjudicatory proceeding commenced after the Board issued an Order To Show Cause in March 2008. During the presentation, the LSP's name was not disclosed.

The members of the Board who were present were as follows: Mr. Guswa, Mr. Franklin, Ms. Race, Ms. Stake, and Mr. Luhrs. Ms. Commerford and Ms. Latowsky (a CRT member) were recused. Ms. Batchelder, Ms. Farnsworth, Mr. Henry, and Mr. Mullen were absent. Except for Ms. Wood, who was the Prosecuting Attorney, and Mr. Quinlan, the Investigator on this matter, the Board's staff was present. No one else was present.

Mr. Fierce reported that the prosecuting attorney and the respondent LSP were jointly proposing that the Board approve an agreement for discipline of an eight-month suspension of the LSP's license. Mr. Fierce described the reasons for the parties' recommendation that the Board accept the proposal.

The Board members present discussed the proposed resolution of this case. At the conclusion of this discussion, a motion was made and seconded to inform the parties that the Board would accept a modified version of the joint proposal, as follows:

- suspension of license for eight months;
- a requirement that the LSP obtain a minimum of 24 continuing education course credits above those required to renew the LSP's license, said credits to be pre-approved by the Board. One of the courses must be in the area of Ethics/Standard of Care, and one must be in the area of Risk Characterization (preferably Method 3); and
- if the credits are not obtained within 18 months, an additional 90-day suspension would be imposed.

The motion was approved unanimously (5-0).

Thereafter, on August 27, 2008, the Respondent LSP signed an Administrative Consent Order in which he agreed to terms set forth in the Board's vote.

Throughout this discussion, the Respondent LSP's name was kept confidential. Now that this Complaint has been resolved, the LSP's name, Mark Germano, is being made public.

6. **FY-2009 Program Priorities:** The Board discussed a draft FY-2009 Program Priorities document prepared by Mr. Fierce and distributed at the previous Board meeting (Aug. 21). Fiscal year 2009 runs from July 1, 2008, to June 30, 2009. Proceeding section by section, the Board agreed upon a number of changes to the draft document. **A motion was made and seconded to adopt the amended document as the Board's Final FY-2009 Program Priorities. The motion was approved unanimously.** [A copy of the final document, as amended, is attached at the end of these Minutes.]

The Board members requested that the final version be e-mailed to them.

7. **Decisions Regarding License Applicants:** The staff presented the following Application Dockets:

<u>Docket No. 1:</u> The applicants' names, company names, application numbers, and Application Review Panel recommendations were read into the record:				
		<u>App. No.</u>	<u>ARP</u>	<u>Rec.</u>
Cheryl R. Montgomery	Montgomery & Assoc.	#1674	215	A
Richard B. Learned	Norfolk RAM	#8740	215	A

Mr. Henry was recused and left the room.

**A motion was made and seconded that the Board accept the recommendations from Application Review Panel #215, i.e., that the applications submitted by Ms. Montgomery and Mr. Learned be accepted and that they be found eligible to take the exam. The motion was approved unanimously.**

Mr. Henry returned and rejoined the meeting.

<u>Docket No. 2:</u> The applicants' names, company names, application numbers, and Application Review Panel recommendations were read into the record:				
		<u>App. No.</u>	<u>ARP</u>	<u>Rec.</u>
Jeffrey P. Lambert	Conestoga-Rovers & Assoc.	#3206	216	A
George G. Lingenfelter	New Eng. Env't'l Tech.	#6173	216	A

Ms. Stake was recused and left the room.

**A motion was made and seconded that the Board accept the recommendations from Application Review Panel #216, i.e., that the applications submitted by Mr. Lambert and Mr. Lingenfelter be accepted and that they be found eligible to take the exam. The motion was approved unanimously.**

Ms. Stake returned and rejoined the meeting.

8. **License Renewal Applications:**

**A. Renewal Dockets.** The staff presented the following License Renewal Docket:

**Renewal Docket #1**

**License Renewal**

Renewal Date: Oct. 30, 2008

Have met all requirements for renewal.

New Renewal Date: Oct. 30, 2011

1. Jeffrey L. Arps #4589

2. Spencer S. Smith

#3661

**A motion was made and seconded to renew to licenses of the LSPs on Renewal Docket #1 for a three-year period ending on the date indicated. The motion was approved unanimously.**

**B. Other Renewal-related Matters.** Mr. Fierce reported that no waiver requests had been received since the previous meeting, and there were no other renewal-related matters.

**9. Other Licensing-Related Matters:**

**A. New Panel Assignments and Scheduling.** Mr. Quinlan assigned Board members to Application Review Panel #217 (Ms. Farnsworth, Mr. Franklin, and Ms. Race).

**B. Appeals Status Report.** Ms. Wood reported that there are no pending appeals regarding the Board's denial of a license application.

**C. Inactive Status Report.** Mr. Fierce reported that since the previous meeting there have been no changes to the list of Inactive LSPs.

**D. Total Number of Active and Inactive LSPs.** Mr. Fierce reported that the total number of Active LSPs as of the date of this meeting was 540. In addition, 6 LSPs remain on Inactive Status.

**10. Examinations:**

**A. New Licensees.** Mr. Fierce reported that the following approved applicant passed the licensing exam administered on July 30, 2008, and is now an LSP:

<u>Name</u>	<u>Licensure Date</u>	<u>License No.</u>
Peter DeChaves	9/8/08	#6493

**B. Next LSP Exam.** The staff reported that the next exam administration is scheduled for October 1, 2008.

**C. Status Report – PC-based Administration.** Mr. Fierce reported that over the previous month some progress had been made. The next step is a full dress rehearsal. He said that he is not certain whether PC-based testing will be ready for the October 1st exam, but that is a possibility.

**11. Continuing Education Committee Report:**

- A. Course and Conference Approval Requests.** Mr. Henry and Mr. Wyman reported that the Committee had met earlier in the day and had the following course recommendation to present to the full Board:

Requestor: Richard Cote, P.E., LSP

Sponsor: University of New Hampshire

Course Title: Dynamic Earth, ESCI 401

Credits Requested: 4

Committee Recommendation: **Approve for University/College Course credit.**  
(See 309 CMR 3.09(8))

**A motion was made and seconded to accept the Committee's recommendation. The motion was approved unanimously.**

- B. Other Business.** The Committee had no other business to report.

12. **Professional Conduct Committee:** Since all the Board members present at this meeting were also present at the Professional Conduct Committee meeting held earlier in the day, the Board agreed to forego a Committee report.
13. **Personnel, Budget, and Fees:** Mr. Fierce stated that there were no items of interest to report this month.
14. **Status of Board Member Replacements by Governor:** Ms. Commerford stated that she and Mr. Fierce have interviewed one candidate for Ms. Latowsky's slot and are preparing a memo requesting that the Secretary recommend this candidate to the Governor.
15. **Next Article for LSPA News:** The Board and the staff discussed possible topics for an article in the next LSPA newsletter. The deadline is September 25.
16. **Scheduling of Next Meeting:** The Board agreed to hold its next meeting on October 16, 2008, at a location to be determined. The Board asked the staff to check the availability of space at CERO and at Raytheon. The following meeting will be held on November 18, 2008, at a location to be determined.
17. **Adjournment:** The meeting was adjourned at 2:46 p.m.

## **LSP Board Final FY-2009 Program Priorities**

At its meeting on September 18, 2008, the Board voted to adopt the following Program Priorities for FY-2009 (July 1, 2008, to June 30, 2009). Priorities have been presented in two categories. **Category I** contains the Board's priority initiatives and challenges for FY 2009. **Category II** contains the goals and standards the Board has established for its other important ongoing activities (e.g., review of license applications).

Within Category I, the Priorities are listed in a general order of importance, i.e., the most important Priorities are listed first. This does not mean that the Board and staff should finish all of Priority #1 in Category I before moving to Priority #2. Many of the tasks listed throughout Category I need to be implemented simultaneously. But if the staff and the Board members have insufficient time to accomplish all tasks or goals listed in Category I, they should focus on accomplishing first the higher-ranked ones.

Category II activities are ongoing, and efforts to meet the goals and standards for these activities will be undertaken throughout the year. Thus, they are not listed in order of priority.

### **Category I (High Priority Initiatives / Activities)**

#### **1. DISCIPLINARY PROCESS:**

- A. Aggressively investigate and resolve the disciplinary complaints in the Board's backlog in a manner that results in their prompt but thorough investigation, and take all steps necessary to enable the fair and prompt adjudication of appeals filed by respondents.
- B. Continue to implement Board Policy #2007-01 and collect and analyze data to document the results and the policy's effectiveness.
- C. By end of fiscal year, complete the investigation of, or resolve by consent order, at least 8 to 10 cases on the Active Disciplinary Cases list.
- D. Continue to explore alternatives for adjudicatory proceedings in an effort to streamline and shorten the time to obtain a recommended decision while providing due process.

#### **2. EXAM-RELATED ACTIVITIES:**

- A. **Begin PC-based Testing.** In FY-09, begin administering the exam using PC-based testing and electronic grading.
- B. **Administer Exam In-House.** Continue to administer the exam in-house approximately twice per quarter. Grade exams and notify candidates within two working days of the exam date.

3. **NEW PROFESSIONAL CONDUCT COURSE:** Reconvene the Course Subcommittee to begin development of a new professional conduct course or to update the previous course.

**Category II**  
**(Other Important Ongoing Activities)**

1. **DISCIPLINARY INFORMATION DISSEMINATION:** Using the Board's website to post summaries of initial and final Board actions, press releases to publicize final Board actions, and the Board's column in the *LSPA News* to publicize selected disciplinary actions taken by the Board, continue to communicate to LSPs and the general public about the disciplinary activities taken by the Board.
2. **LICENSE RENEWAL PROCESS:** Implement an efficient system for renewing the licenses of those LSPs whose licenses expire during this fiscal year, including but not limited to the following:
  - A. At least six weeks before each quarterly renewal date (30<sup>th</sup> of July, October, January, and April), mail out renewal packages; and
  - B. Take the steps necessary to review each renewal application within 10 days of its receipt to ensure that each applicant has in fact obtained the continuing education credits required by 309 CMR 3.09 and paid the Renewal Fee.
3. **APPLICATION PROCESS:** Implement an application processing system that results in the routine processing of all applications on a timely basis, subject to the availability of Board members.
4. **CONTINUING EDUCATION:**
  - A. Process in a timely manner all requests for Board approval of courses and conferences for continuing education credit.
  - B. Maintain a hard copy and database record of each approved course, and post an up-to-date list of upcoming courses on the Board's website.
5. **COLLECTION OF ANNUAL FEES:** Collect an Annual Fee, as required, from each Active and Inactive LSP. Send fee invoices in early January for collection by March 1.
6. **IMPROVEMENTS TO LSP BOARD'S WEBSITE:** With the use of technical assistance provided by MassDEP staff, upgrade the appearance and content of the Board's website. Also take all steps required to ensure that the Board's website is compliant with all accessibility requirements.